

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

**RANDALL CURTIS WOTRING d/b/a
CARGO TRAPP INDUSTRIES, INC.,
a corporation,**

Plaintiff,

v.

**SMITTYBILT AUTOMOTIVE GROUP, INC.
a corporation,**

Defendant.

CIVIL NO.

1:05CV0570

JURY TRIAL DEMANDED

**Gordon J. Quist
U.S. District Judge**

COMPLAINT AND DEMAND FOR JURY TRIAL

THE PARTIES

1. Plaintiff, Randall Curtis Wotring d/b/a Cargo Trapp Industries, Inc. ("Cargo Trapp"), is the sole owner of a corporation organized and existing under the laws of the State of Michigan, having a principal place of business at P.O. Box 507, Big Rapids, Michigan 49307.

2. Defendant, Smittybilt Automotive Group, Inc. ("Smittybilt"), upon information and belief, is a California corporation having its principal place of business at 1550 Magnolia Avenue, Corona, California 92879-2094.

3. Upon information and belief, Smittybilt has in the past, and continues today, to engage in and transact business within the Western District of Michigan, has contracted or attempted to contract to supply infringing goods to the Western District of Michigan, has caused tortious acts in the Western District of Michigan by act or omission in the Western District of Michigan, and has caused tortious injury in the Western District of Michigan by an act or omission outside of the state.

4. Venue before this court is proper under 28 U.S.C. §§1391(b) and (c) and §1400(b).

THE PATENT

5. United States Letters Patent 5,368,210 (hereinafter “the ‘210 Patent”) was duly and legally issued November 29, 1994, on an invention entitled “Cargo Storage Apparatus.” Plaintiff Randall C. Wotring is the present owner of the ‘210 Patent. A true and accurate copy of the ‘210 Patent is attached as Exhibit 1.

6. Plaintiff Randall C. Wotring makes, sells and offers for sale products in accordance with the invention claimed in the ‘210 patent, and affixes the patent number of the ‘210 patent to such products in accordance with 35 C.F.R. §287.

COUNT I

PATENT INFRINGEMENT

7. Cargo Trapp incorporates Paragraphs 1-6 to the same extent and in the same manner as if they were repeated in their entirety.

8. This is a claim for patent infringement. This claim arises under the patent laws of the United States, Title 35, United States Code.

9. This Court has jurisdiction under this cause of action under 28 U.S.C. §1338(a).

10. Smittybilt has been infringing and continues to infringe the ‘210 Patent by making, using, offering for sale, selling, and/or importing the invention claimed in the ‘210 Patent in the United States and/or inducing and contributing to others to do the same, in violation of the United States Patent Laws. Such infringement has been willful and deliberate.

11. Infringement of the ‘210 Patent by Smittybilt will continue unless and until enjoined by this Court.

12. Cargo Trapp has in the past and continues to suffer irreparable injury as a result of Smittybilt’s actions.

WHEREFORE, Cargo Trapp prays:

- a) That an injunction be issued enjoining further infringement of the '210 Patent by Smittybilt;
- b) That Cargo Trapp be awarded damages for infringement of the '210 Patent by Smittybilt, and that such damages be trebled in accordance with statute because such infringement has been willful and deliberate;
- c) That an assessment in allowance of costs, interest and reasonable attorneys' fees be made against Smittybilt, and that the resultant sum be awarded to Cargo Trapp; and
- d) That Cargo Trapp have such other and further relief as this Court may deem just.

JURY DEMAND

Plaintiff hereby demands a jury trial on all causes of action and allegations set forth in its Complaint.

Respectfully submitted,

RANDALL CURTIS WOTRING
D/B/A CARGO TRAPP INDUSTRIES, INC.

Dated: August 24, 2005

By: _____


One of Its Attorneys

Steven L. Underwood
Brian R. Cheslek
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 Kenmoor Avenue SE, P.O. Box 2567
Grand Rapids, MI 49501-2567
PHONE: 616/949-9610
FAX: 616/957-8196
Attorneys for Plaintiff